



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MAP - 175524

PRELIMINARY RECITALS

Pursuant to a petition filed on July 12, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Eau Claire County Department of Human Services regarding Medical Assistance (MA), a hearing was held on August 16, 2016, by telephone.

The issue for determination is whether the petitioner's assets exceed the Medicaid Purchase Plan's limit.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By [REDACTED]

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Burnett County.
2. The petitioner receives medical assistance through the Medicaid Purchase Plan.

3. The petitioner received a \$50,000 settlement because of an accident. After paying subrogation claims, she has \$37,000 left.
4. The department notified the petitioner that her medical assistance would end on August 1, 2016, because her assets exceeded the program's limit.

DISCUSSION

The county agency seeks to end the medical assistance benefits the petitioner receives through the Medicaid Purchase Plan because a recent accident settlement left her with \$37,000 in assets. This exceeds the program's \$15,000 limit. Wis. Stat. § 49.472(3)(b). The county agency suggested she put this money into a special needs trust, which would make it exempt. She indicated that she was buying a house. This would also make it exempt because one's homestead property does not count against the limit. *Id.*, referring to 42 U.S.C. § 1382b(a)(1). Although I assume she will do one of these things, I must uphold the agency's current decision to end her benefits. She should report any change of circumstances such as a purchase of a house immediately to ensure that she continues to receive benefits. Because her benefits have continued while this matter is pending, she might not have any gap in her benefits if she reports this soon enough.

CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner is ineligible for medical assistance benefits through the Medicaid Purchase Plan because her countable assets exceed \$15,000.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 31st day of August, 2016

\s_____
Michael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 31, 2016.

Eau Claire County Department of Human Services
Division of Health Care Access and Accountability